

United States District Court
Southern District of Georgia
Augusta Division

LAWRENCE RUPERT SMITH,
Plaintiff,)

VS)

CASE NUMBER CV 106-059

THOMAS AMMONS,
Petitioner.)

FOR USE IN HABEAS CORPUS CASES
(28 U.S.C. § 2254 / 2255)

CERTIFICATION AND ORDER
ELIGIBILITY TO PROCEED ON APPEAL IN FORMA PAUPERIS

I. Eligibility to proceed on appeal in forma pauperis

- A. Petitioner in this case was permitted to proceed in the District Court in forma pauperis. Pursuant to 28 U.S.C. § 1915 and Fed. R. App. P. 24 (a), Petitioner may proceed on appeal in forma pauperis UNLESS this Court certifies that the appeal is not taken in good faith or otherwise finds that Petitioner is not entitled to so proceed.

☐ In accordance with the foregoing, Petitioner is entitled to proceed on appeal in forma pauperis.

☒ For the following reason(s), this appeal is not taken in good faith (**AND / OR**) Petitioner otherwise is not entitled to proceed on appeal in forma pauperis:

Petitioner has been unable to make a
substantial showing of the denial of a
constitutional right.

(OR) B.

Petitioner has filed with this Court a motion to proceed on appeal in forma pauperis. Pursuant to 28 U.S.C. § 1915 and Fed. R. App. P. 24(a), this Court hereby

☐ **GRANTS** the motion to proceed in forma pauperis on appeal,

☐ **DENIES** the motion to proceed in forma pauperis on appeal for the following reason(s):

☐ This Court **CERTIFIES** that the appeal is not taken in good faith because

☐ Petitioner has failed to submit the affidavit required by 28 U.S.C. § 1915 (a) (1).

☐ Other:

II. Certificate of Appealability / Probable Cause to Appeal

A. Petition filed on or after April 24, 1996 (pursuant to either to 28 U.S.C. § 2254 or § 2255)

Pursuant to 28 U.S.C. § 2253(c), an appeal may not be taken in this matter unless the Court issues a Certificate of Appealability. This certificate may issue only if Petitioner has made a substantial showing of denial of a constitutional right, and (if granted) the certificate must indicate which specific issue or issues satisfy this showing. In accordance with the foregoing, a Certificate of Appealability is hereby

☐ **GRANTED**

☒ **DENIED**

for the following reasons and (if granted) with respect to the following issues:

Petitioner has failed to make a substantial
showing of the denial of a constitutional right.

(OR) B.

Section 2254 petition filed prior to April 24, 1996

An appeal may not be taken in this matter unless the Court issues a Certificate of Probable Cause for appeal. This certificate may issue only if Petitioner satisfies the showing required for a certificate of appealability as set forth above. In accordance with the foregoing, a Certificate of Probable Cause for Appeal is hereby

☐ GRANTED

☐ DENIED

III. Transcripts of Proceedings



This Court will not presently require the preparation of a transcript or the payment therefor by the United States. To the extent that a transcript of any portion of the District Court proceedings is required, the Court of Appeals may more economically direct which proceedings it requires to be transcribed.

☐ The Court Reporter shall transcribe the proceedings as requested by the party proceeding in forma pauperis and the United States shall bear the expense.

SO ORDERED, this 3 day of March, 2008.



JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA